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09/187,472 11/06/98 ALLINGTON R 17990-1-1

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EXAMINER

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ART UNIT

PAPER NUMBER

1761

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10/08/99

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
**09/187,472**

Applicant(s)  
**Allington et al**

Examiner  
**Drew Becker**

Group Art Unit  
**1761**



☒ Responsive to communication(s) filed on Nov 6, 1998

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-61 is/are pending in the application.

Of the above, claim(s) 14-55 and 59-61 is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-13 and 56-58 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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## DETAILED ACTION

### *Election/Restriction*

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-13 and 56-58, drawn to a method of roasting a food product, classified in class 426, subclass 231.
  - II. Claims 14-52, drawn to an apparatus for roasting coffee beans, classified in class 99, subclass 286.
  - III. Claims 53-55, drawn to a method of roasting inside a store, classified in class 426, subclass 520.
  - IV. Claims 59-61, drawn to a method for treating matter, classified in class 110, subclass 148.

2. The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the apparatus of group II can be used in a manner not limited to the method of group I, for instance roasting of non-food products.

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3. Inventions I and III are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions have different functions, group I is directed to a method of controlling roasting via input parameters while group III is directed to a method of filtering and treating hot roasting air.

4. Inventions I and IV are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions have different functions, group I is directed to a method of controlling roasting via input parameters while group IV is directed to a method of treating matter.

5. Inventions II and III are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the apparatus of group II can be used in a manner not limited to the method of group III, for instance roasting of non-food products.

6. Inventions II and IV are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the apparatus of

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group II can be used in a manner not limited to the method of group IV, for instance roasting without any limits on flow time.

7. Inventions III and IV are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions have different functions, group III is directed to a method of filtering and treating hot roasting air while group IV is directed to a method of treating matter.

8. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

9. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, which is not required for Group III, which is not required for Group IV; restriction for examination purposes as indicated is proper.

10. During a telephone conversation with J. Georg Seka on September 24, 1999 a provisional election was made with traverse to prosecute the invention of group I, claims 1-13 and 56-58.

Affirmation of this election must be made by applicant in replying to this Office action.

Claims 14-55 and 59-61 are withdrawn from further consideration by the examiner, 37

CFR 1.142(b), as being drawn to a non-elected invention.

11. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently

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named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

***Specification***

12. Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 119(e) as follows:

An application in which the benefits of an earlier application are desired must contain a specific reference to the prior application(s) in the first sentence of the specification (37 CFR 1.78).

***Claim Rejections - 35 USC § 102***

13. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

14. Claims 1-4 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Camerini Porzi [Pat. No. 4,849,625]. (column 4, lines 17-28)

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***Claim Rejections - 35 USC § 103***

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

— obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. Claims 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Camerini Porzi.

Camerini Porzi teaches a method of roasting coffee beans comprising a photoemitter element (Figure 1, 1), a photodetector for monitoring the color of the beans during roasting (Figure 1, 2), a colorimeter which produces an output signal equivalent to desired color (Figure 1, 7; column 4, line 17), and a comparator which ends the roasting when the signals from the colorimeter and photodetector are equal (column 4, lines 22-26). It would have been obvious to one of ordinary skill in the art to use a laser with a wavelength of 600-800 nm since Camerini Porzi teach the photoemitters generating light (column 4, line 8) and visible light falls within the range of 600-800 nm.

17. Claims 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Camerini Porzi in view of Gell Jr [Pat. No. 4,494,314].

Camerini Porzi teaches the above mentioned concepts. Camerini Porzi does not recite a multiplicity of different product types. Gell Jr teaches a coffee roaster with settings for multiple types of beans and roasting levels (column 4, line 61 to column 5, line 19). It would have been

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obvious to one of ordinary skill in the art to incorporate the multiple setting and roasting levels of Gell Jr into the invention of Camerini Porzi since Gell Jr teaches that coffee beans come in different sizes and densities which can effect the roasting time (column 5, line 10) and since consumers have varying tastes in coffee.

18. Claims 9-10 and 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Camerini Porzi in view of Tidland et al [Pat. No. 5,958,494].

Camerini Porzi teaches the above mentioned concepts. Camerini Porzi does not recite removing substantially all pollutants from the roasting air followed by exhausting a major portion of the filtered air into the surrounding room and recycling the remainder back into the roaster. Tidland et al teach a roasting system comprising removing pollutants from the exhaust (column 2, line 29), recycling the filtered air (column 2, line 28), and discharging the remainder of the filtered air tot the surrounding room (column 2, line 40). It would have been obvious to one of ordinary skill in the art to incorporate the exhaust system of Tidland et al into the invention of Camerini Porzi since Tidland et al teach that this makes the roasting system more energy efficient (column 2, line 44).

19. Claim 56 is rejected under 35 U.S.C. 103(a) as being unpatentable over Camerini Porzi in view of Tidland et al and Scher et al [Pat. No. 5,062,066].

Camerini Porzi and Tidland et al teach the above mentioned concepts. Camerini Porzi and Tidland et al do not recite controlling multiple roasting machines at different locations. Scher et al teach a control system for roasting comprising multiple roasters (column 3, line 15). It would



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have been obvious to one of ordinary skill in the art to control multiple roasters as taught by Scher et al with the invention of Camerini Porzi since Camerini Porzi teaches a remote processing unit which is located a distance away from the roaster (column 3, line 63) and since multiple roasters would create more diversified products and reduce waiting time.

20. Claim 57 is rejected under 35 U.S.C. 103(a) as being unpatentable over Camerini Porzi in view of Tidland et al, Scher et al, and Helbling [Pat. No. 5,158,793].

Camerini Porzi, Tidland et al, and Scher et al teach the above mentioned concepts. Camerini Porzi, Tidland et al, and Scher et al do not recite a step of keeping an inventory and generating a low inventory signal. Helbling teaches a coffee machine including a weight sensor which detects when a station is empty and generates an "empty" signal (column 7, line 54). It would have been obvious to one of ordinary skill in the art to incorporate the weight control system of Helbling into the invention of Camerini Porzi since this would be an effective means of maintaining a constant rate of roasting by eliminating any stoppages in the process due to an empty supply bin.

21. Claim 58 is rejected under 35 U.S.C. 103(a) as being unpatentable over Camerini Porzi in view of Tidland et al, Scher et al, and Gells Jr.

Camerini Porzi, Tidland et al, Scher et al, and Gells Jr teach the above mentioned concepts and are combined for the above mentioned reasons.

22. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Langford [Pat. No. 3,735,143], Nelson [Pat. No. 3,867,039], Arild et al [Pat. No. 4,350,442], Gallas et al [Pat. No. 5,724,882], Tamaki et al [Pat. No. 4,860,461], Satake et al

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[Pat. No. 5,034,609], WO 9923888A1, EP 446794A, Toyokura [Pat. No. 5,385,083], and Torres [Pat. No. 2,572,678]


23. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Drew Becker whose telephone number is (703)-305-0300. The examiner can normally be reached on Monday-Thursday from 7:00 am to 4:00 pm and every other Friday from 7:00 am to 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Lacey, can be reached on (703)-308-3535. The fax number for this Group is (703)-305-3602.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0651.

Drew Becker

October 1, 1999

  
David Lacey  
Supervisory Patent Examiner  
Technology Center 1700

10/1/99